

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:19-cv-417-FDW**

THIS MATTER comes before the Court on remand from the Fourth Circuit Court of Appeals.

Petitioner Frederick Bank filed a *pro se* “Petition for a Writ of Habeas Corpus under 28 U.S.C. §§ 2241, 2242, 18 U.S.C. 3332; and 50 U.S.C. § 1806(f) to Disclose FISA Electronic Surveillance.” (Doc. No. 1). This Court dismissed and denied relief. (Doc. No. 5). On appeal, the Fourth Circuit vacated the denial of § 2241 and directed that the § 2241 petition be dismissed for lack of subject matter jurisdiction because Petitioner was a federal pretrial detainee at the relevant time. See Banks v. Republic of Sudan, 825 F. App’x 134 (4th Cir. 2020). The Fourth Circuit affirmed in all other respects. *Id.*

In accordance with the Fourth Circuit’s mandate, Petitioner’s § 2241 petition is dismissed for lack of subject matter jurisdiction. See Rumsfeld v. Padilla, 542 U.S. 426, 443 (2004) (under § 2241, jurisdiction “lies only in one district: the district of confinement.”).

IT IS, THEREFORE, ORDERED that:

1. Petitioner's § 2241 petition is **DISMISSED** for lack of subject matter jurisdiction.
2. **IT IS FURTHER ORDERED** that this Court declines to issue a certificate of

appealability. See 28 U.S.C. § 2253(c)(2) (a certificate of appealability will not issue absent “a substantial showing of the denial of a constitutional right.”); Miller-El v. Cockrell, 537 U.S. 322, 338 (2003) (in order to satisfy § 2253(c), a petitioner must demonstrate that reasonable jurists would find the district court’s assessment of the constitutional claims debatable or wrong); Slack v. McDaniel, 529 U.S. 473, 484 (2000) (when relief is denied on procedural grounds, a petitioner must establish both that the dispositive procedural ruling is debatable and that the petition states a debatable claim of the denial of a constitutional right).

Signed: November 9, 2020


Frank D. Whitney
United States District Judge